

IN RE: PETITION FOR VARIANCE
NR/S Wanner Road, 100' NW of
the end of Pleasant Hill Road
(103 & 105 E. Pleasant Hill Road)
4th Election District
3rd Councilmanic District
Frederick J. Burgesen, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 94-112-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Frederick J. and Michelle Y. Burgesen. The Petitioners request relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two existing accessory structures (sheds) to remain in the front yard in lieu of the required rear yard, and a side yard setback of 0 feet in lieu of the minimum required 2.5 feet for one shed, all as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Frederick J. Burgesen, property owner, Albert L. Snyder, Surveyor, and Michael P. Smith, Esquire, attorney for the Petitioners. There were no Protestants at the hearing.

Testimony indicated that the subject property, known as 103 and 105 East Pleasant Hill Road, consists of 0.40058 acres, more or less, split zoned D.R. 16 and D.R. 10.5. Said property is improved with two duplex dwelling units situated back to back as shown on the site plan marked Petitioner's Exhibit 1. Two sheds exist in the front yard of 103 East Pleasant Hill Road, one of which is located on the side property line. The requested variances are necessary as there is no rear yard for this dwelling, and as such, compliance with the regulations is impossible. Testimony indicated that the sheds are needed to store lawn and garden

tools and equipment as well as cooking grills for the two families living on this property and that practical difficulty and unreasonable hardship will result if the requested variances are denied. Further testimony and evidence presented revealed that the two sheds are located in heavily treed areas and are pretty much screened from view.

It is to be noted that this Petition was filed as a result of a complaint registered with the Zoning Administration and Development Management Office (ZADM) as to the location of the two sheds in the front yard. No one appeared in opposition to this request and no County agency had any adverse comments.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

- 2 -

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land and/or structures which are the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 2nd day of November, 1993 that the Petition for Variance requesting relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two accessory structures in the front yard in lieu of the required rear yard, and a side yard setback of 0 feet in lieu of the minimum required 2.5 feet for the shed serving 103 East Pleasant Hill Road, in accordance with Petitioner's Exhibit 1, be and are hereby GRANTED, subject to the following restriction:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this order has expired. If, for whatever reason, this order is reversed, the relief granted herein shall be rescinded.

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

November 2, 1993

(410) 887-4346

Michael P. Smith, Esquire
143 Main Street
Reisterstown, Maryland 21116

RE: PETITION FOR VARIANCE
NR/S Wanner Road, 100' NW of the end of Pleasant Hill Road
(103 & 105 E. Pleasant Hill Road)
4th Election District 3rd Councilmanic District
Frederick J. Burgesen, et ux Petitioners
Case No. 94-112-A

Dear Mr. Smith:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached order.

In the event any party finds the decision rendered in the above-captioned matter, the Petition for Variance has been granted in accordance with the attached order, to be appealable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3191.

Very truly yours,

Timothy M. Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Mr. Frederick J. Burgesen
2222 Caves Road, Owings Mills, Md. 21117

People's Counsel

/s/

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 11C Date of Posting: 11/4/93
Posted for: Variance
Petitioner: Frederick J. Burgesen & Michelle Y. Burgesen
Location of property: 17 E. Pleasant Hill Rd., 100' NW of Pleasant Hill Rd.
Location of Sign: Posting 2222 Caves Rd. Property being 702-4-1
PT. Burgesen, 100' NW of Pleasant Hill Rd.
Remarks: None
Posted by: Timothy M. Kotroco Date of return: 11/8/93
Number of Signs: 1

Petition for Variance to the Zoning Commissioner of Baltimore County

for the property located at #103 & #105 East Pleasant Hill Road
which is presently zoned DR-16

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.1

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons (indicate hardship or practical difficulty):

To allow two accessory structures in the front yard in lieu of the required rear and a side yard setback of 0 feet in lieu of the required 2.5 feet.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and ordinances of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

(We, the undersigned, hereby certify and affirm, under the penalties of perjury, that I am the legal owner(s) of the property which is the subject of this petition.)

(Legal Name)

Frederick J. Burgesen

(Legal Name)

Michelle Y. Burgesen

(Legal Name)

Michelle Y. Burgesen

(Legal Name)

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Michelle Y. Burgesen

(Legal Name)

Michelle Y. Burgesen

TO: POTOMAC PUBLISHING COMPANY
September 23, 1993 Issue - Jeffersonian

Please forward billing to:

Frederick and Michelle Burgesen
2222 Caves Road
Owings Mills, Maryland 21117
410-252-3277

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 94-112-A (Item 116)
Current address: 17 E. Pleasant Hill Road
Proposed address: 103 and 105 E. Pleasant Hill Road
RE/S Wanner Road (aka Walk Avenue), 100' NW of c/l Pleasant Hill Road
4th Election District - 3rd Councilmanic
Petitioner(s): Frederick J. Burgesen & Michelle Burgesen
HEARING: WEDNESDAY, OCTOBER 27, 1993 at 9:00 a.m. in Rm. 106, County Office Building.

Variance to allow two accessory structures in the front yard in lieu of the required rear and side yard setback of zero feet in lieu of the required 2.5 feet.

LAURENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

SEPTEMBER 16, 1993

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

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Variance to allow two accessory structures in the front yard in lieu of the required rear and side yard setback of zero feet in lieu of the required 2.5 feet.

Arnold Jablon
Director

cc: Frederick and Michelle Burgesen
William Moore

NOTES: (1) ZONING SIGN AND POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

October 18, 1993

Mr. and Mrs. Frederick J. Burgesen
2222 Caves Road
Owings Mills, Maryland 21117

RE: Case No. 94-112-A, Item No. 116
Petitioner: Frederick J. Burgesen, et ux
Petition for Variance

Dear Mr. and Mrs. Burgesen:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on September 9, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

Baltimore County Government
Department of Permits and Licenses

111 West Chesapeake Avenue
Towson, MD 21204

SEPTEMBER 28, 1993

(410) 887-3610

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

ZONING AGENDA - Formal or Informal Response Due September 27, 1993

- RE: Property Owner: William Lee Gaines and Emma V. Gaines
Location: #1610 Ruxton Road
Item No.: *109 (RT)
No Comments.
- RE: Property Owner: Alice Trent
Location: #9 Compass Road
Item No.: *110 (RT)
No Comments.
- RE: Property Owner: Mitcherling and Mitcherling, D.D.S., P.A.
Location: #1414 Shore Road
Item No.: 111 (WCR)
No Comments.
- RE: Property Owner: Park School
Location: Park School
Item No.: + 112 (WCR)
1. Fire hydrants for the referenced property are required and shall be located at intervals of 750 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 Edition prior to occupancy.
- RE: Property Owner: Stanley G. Souranis and Annette N. Souranis
Location: #1405 Mt. Airy Road
Item No.: *114 (JLL)
No Comments.
- RE: Property Owner: Domenick William Filletti and Mary Elizabeth Filletti
Location: #7815 Seaside Road
Item No.: *115 (RT)
No Comments.
- RE: Property Owner: Frederick J. Burgesen and Michelle & Burgesen

Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

September 27, 1993

Mr. and Mrs. Frederick J. Burgesen
2222 Caves Road
Owings Mills, Maryland 21117

Re: Case No. 93-369CV
17 E. Pleasant Hill Road
4th Election District

Dear Mr. and Mrs. Burgesen:

Under Title 26, Section 26-180 of the Baltimore County Code, the Department of Zoning Administration and Development Management will not process any plans/permits for this site nor any development that you may own or have any interest in within Baltimore County. Further, we will be requesting that the zoning commissioner in the upcoming public hearing Case No. 94-112-A, currently scheduled for October 27, 1993 at 9:00 A.M., not render a decision until the property is in total compliance with the zoning laws. Finally, injunctive action will be instituted within the District Court of Maryland, prohibiting any further construction/development at 17 E. Pleasant Hill Road because of your failure to cease all forms of construction at this location.

If additional questions should exist, please contact either Planner Kate Milton at 887-3391 or Inspector Derek Propolis at 887-3351.

Sincerely,

James B. Thompson
Zoning Enforcement Coordinator

JMT/hak

cc: C.A. Dutch Ruppelberger, III, Councilman, 3rd District
Lawrence E. Schmidt, Zoning Commissioner
Kate Milton
Derek Propolis

cc: William Moore

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

James Oyer
TO: Zoning Supervisor
James Thompson
FROM: Zoning Enforcement Coordinator
Item No.: 116 (if known)
SUBJECT: Petitioner: BURGESON (if known)

VIOLATION CASE # 93-369 CV
LOCATION OF VIOLATION 17 E. Pleasant Hill (Wanner Rd)
DEFENDANT BURGESON FREDERICK ADDRESS 2222 Caves Rd
OWINGS MILLS 21117

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME ADDRESS
William Moore 15 E. Pleasant Hill Rd
O.M. 21117

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

O. James Lighnizer
Secretary
Hal Kassoff
Administrative

Maryland Department of Transportation
State Highway Administration

Ms. CHARLOTTE MINTON
Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No. 116

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway nor a State Highway Administration project.

Please contact Bob Small at 410-332-1250 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

John Contestabile, Chief
Engineering Access Permits
Division

My telephone number is _____
Teletypewriter for impaired hearing or speech
283-7555 Baltimore Metro - 1-800-451-0000 Metro - 1-800-492-5862 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21202-9117

RECEIPT PLAN COMMENTS
SUBJECT NAME: Frederick Burgeson Property
CPC DATE: 3/28/94
PAGE 2

3. Label all building front orientations so that BCZR setback compliance can be determined.
4. Please contact Catherine Milton (887-3391) to resolve any questions concerning these comments.

Final zoning approval is contingent first, upon all plan comments being addressed on the Development Plan; and secondly, upon the final resolution of all comments, the outcome of any requested zoning hearings and finally, the inclusion of the FDP checklist information being included on the Final Development Plan.

Catherine Milton
Catherine Milton
Planner II

JLL:scj

cc: 894-112-A
891-135-MP

(410) 239-7744

(410) 374-9695

September 23, 1993

Baltimore County Zoning Office
111 West Chesapeake Avenue
Towson, Maryland 21204

Attn: Gwen Stephens

Re: Item #116 - The Frederick J. Burgeson Property
Pleasant Hill Road
Petition for Variance

Dear Ms. Stephens,

A variance request has been filed in connection with the subject property. The property is occupied by renters and they are: Hugh Barker - No. 17A Pleasant Hill Road East (the new number which will appear on the subdivision and zoning plat is 103 Pleasant Hill Road East) and Loraine DeMarco - No. 17 Pleasant Hill Road East (the new number which will appear on the subdivision and zoning plat is 105 Pleasant Hill Road East).

This information is being supplied so that, if necessary, those persons may be notified of the zoning hearing.

Sincerely,

Albert LeRoy Snyder
Albert LeRoy Snyder

ALS/mes

MEMBER: Md. Soc. of Surveyors • W. Va. Assoc. of Land Surveyors • ACSM •

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-TH SHIRT

MURDER PAUL SMITH, JES
ALBERT LE ROY SNYDER
FREDERICK J. BURGESSON

145 MAIN ST. (WESTCHESTER), MD 21136
1911 HENRIETTA ST. (HARRISBURG) MD 2174
2222 CORNER RD. (DUNN) MD, 2104

R. 16

D.R. 10.5

D.R. 3.5

D.R. 16

D.R. 3.5

D.R. 3.5

D.R. 16

SCALE

1" = 200'

LOCATION

BELLTOWN

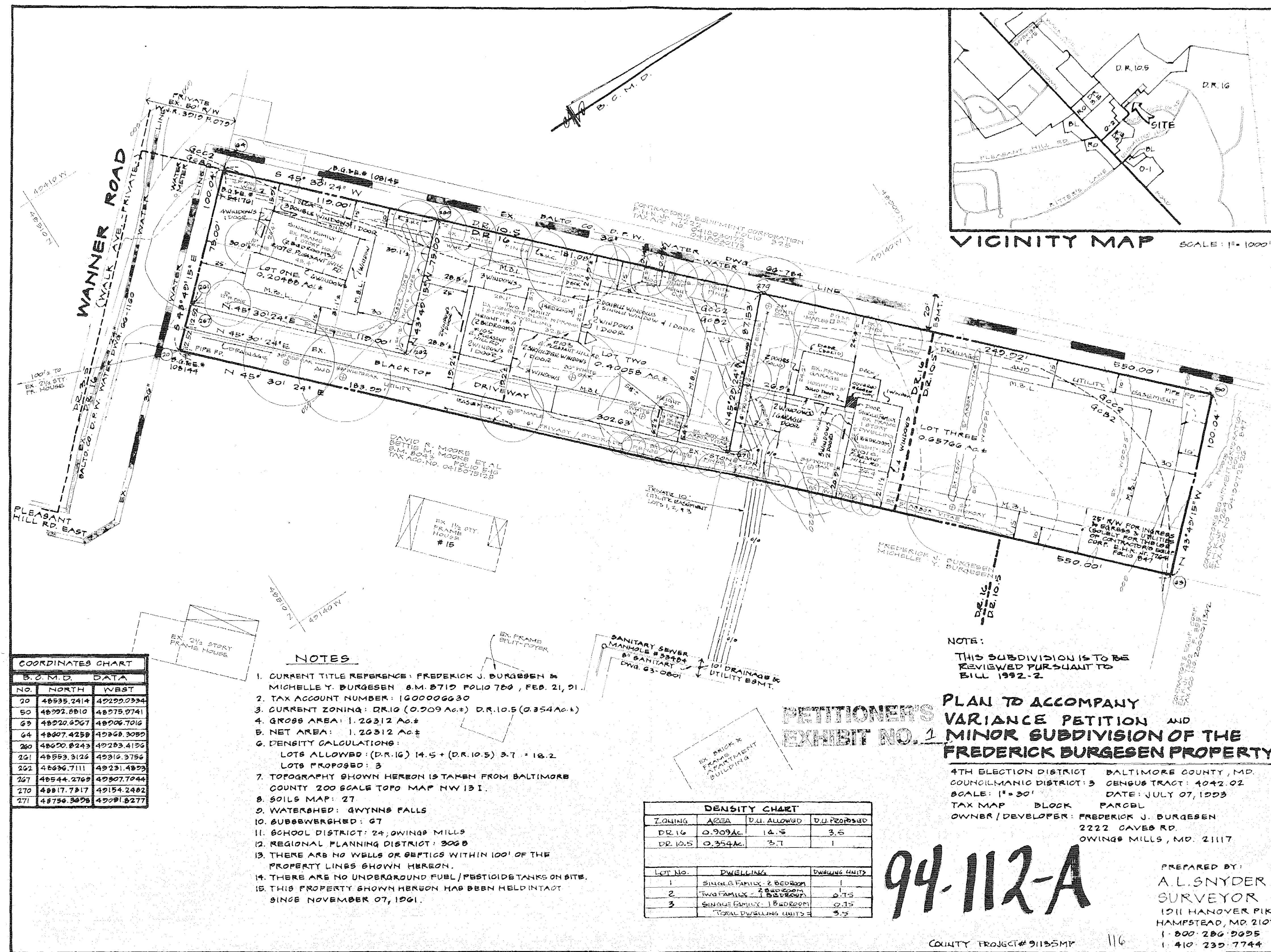
DATE
OF
PHOTOGRAPHY
JANUARY
1986

48

SHEET

NING 94-112-A
MP 211

*Petitioner's
Exhibits 2A &
2B
Case 94-112-A*



COORDINATES CHART		
S.C.M.D. DATA		
NO.	NORTH	WEST
20	48935.2414	42252.0934
50	48992.8810	48575.0741
63	48922.8567	48006.7016
64	48907.4258	48568.3089
260	48950.8243	48213.4194
251	48959.3103	48316.3754
252	48936.7111	48231.4829
261	48944.2769	48267.7244
270	48917.7817	48154.2462
271	48759.3879	48091.8277

NOTES

1. CURRENT TITLE REFERENCE: FREDERICK J. BURGENSEN & MICHELLE Y. BURGENSEN S.M. 8712 FOLIO 789, FEB. 21, 21.
2. TAX ACCOUNT NUMBER: 1600006630
3. CURRENT ZONING: DR10 (0.209 AC.) D.R.10.5 (0.354 AC.)
4. GROSS AREA: 1.26312 AC.
5. NET AREA: 1.26312 AC.
6. DENSITY CALCULATIONS:
LOTS ALLOWED: (D.R.10) 14.5 + (D.R.10.5) 3.7 = 18.2
LOTS PROPOSED: 3
7. TOPOGRAPHY SHOWN HEREON IS TAKEN FROM BALTIMORE COUNTY ZOO SCALE TOPO MAP NW 13 I.
8. SOILS MAP: 27
9. WATERSHED: GWYNNS FALLS
10. SUBWATERSHED: G7
11. SCHOOL DISTRICT: 24, OWINGS MILLS
12. REGIONAL PLANNING DISTRICT: 306B
13. THERE ARE NO WELLS OR SEPTICS WITHIN 100' OF THE PROPERTY LINES SHOWN HEREON.
14. THERE ARE NO UNDERGROUND FUEL/PESTICIDE TANKS ON SITE.
15. THIS PROPERTY SHOWN HEREON HAS BEEN HELD INTACT SINCE NOVEMBER 07, 1961.

PETITIONER'S EXHIBIT NO. 1

PLAN TO ACCOMPANY VARIANCE PETITION AND MINOR SUBDIVISION OF THE FREDERICK BURGENSEN PROPERTY

4TH ELECTION DISTRICT BALTIMORE COUNTY, MD.
COUNCILMANIC DISTRICT: 3 CENSUS TRACT: 4042.02
SCALE: 1"=30' DATE: JULY 07, 1993
TAX MAP: BLOCK PARCEL
OWNER/DEVELOPER: FREDERICK J. BURGENSEN
2222 GAYES RD.
OWINGS MILLS, MD. 21117

DENSITY CHART			
ZONING	AREA	D.U. ALLOWED	D.U. PROPOSED
DR.10	0.209 AC.	14.5	3.5
DR.10.5	0.354 AC.	3.7	1

LOT NO.	DWELLING	DWELLING UNIT
1	SINGLE FAMILY, 2 BEDROOM	1
2	TWO FAMILY, 1-1 1/2 BEDROOM	2.75
3	SINGLE FAMILY, 1 BEDROOM	0.75
TOTAL DWELLING UNITS		4.5

94-112-A

COUNTY PROJECT# 91135MP 116

PREPARED BY:
A.L. SNYDER
SURVEYOR
1211 HANOVER PIKE
HAMPSTEAD, MD. 21074
1-800-286-2825
1-410-232-7744
JOB NO. 23044